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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,359	02/28/2002	Debra Marie Cappucci	213202.00375	5585
27160	7590	11/20/2003	EXAMINER	
PATENT ADMINISTRATOR KATTEN MUCHIN ZAVIS ROSENMAN 525 WEST MONROE STREET SUITE 1600 CHICAGO, IL 60661-3693			VO. HAI	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/084,359		CAPPUCCI ET AL.	
	Examiner		Art Unit	
	Hai Vo		1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-73 is/are pending in the application.
- 4a) Of the above claim(s) 26-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 50-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-25 in the amendment received on 08/29/2003 is acknowledged. The traversal is on the ground(s) that there is no undue burden on the Examiner to search both the product claim and the method claims in this present application. This is not found persuasive because a search of Group I would not include the search for Group II. The restriction requirement is deemed proper and is therefore made FINAL.

Drawings

2. Figures 1-5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5-10, 17-22, 24, 50, 51, 54-58, 65-67, and 69-72 are rejected under 35 U.S.C. 102(b) as being anticipated by Wildern, IV et al (US 4,317,591).

Wildern, IV teaches a vehicle seat assembly having a trim cover, a foam pad and

a fastening device fit in an insertion gap. Wildern, IV discloses a vehicle seat assembly comprising a plurality of opening 20 having a large diameter portion 22 and a smaller diameter portion 24 which intersects a channel 18. Likewise, the opening has a first section and a second section wherein the first section has a narrower width than the second section. Wildern, IV discloses the diameter of the upper bore 24 being 12 mm. Accordingly, the opening has the width at least of 12 mm, within the claim range. Wildern, IV teaches that the fastening device includes a base portion 42, a female attachment portion 52. Wildern, IV discloses the base portion 42 being encompassed by the foam pad and the female attachment portion 52 spanning with the width of the opening. Wildern, IV discloses the seat assembly comprising a plurality of female portions disposed in the channel and independent of one another (figure 1). The seat assembly comprises a plurality of female portions disposed in the channel and interconnected to one another at least one connecting portion such as the base 66 as shown in figure 2. Wildern, IV discloses the trim cover comprising the other of the male portion 17 (figures 1-3). Wildern, IV teaches the rod made of a flexible material such as polypropylene (column 2, lines 15-16). It is the examiner's position that Wildern, IV anticipates the claimed subject matter.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 23 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wildern, IV et al (US 4,317,591) in view of Ohno et al (US 5,972,465). Wildern, IV does not specifically disclose the fastening device being made of polyurethane. Ohno teaches the fastener member made of polyurethane (column 6, line 60). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use polyurethane to form the fastening device because such is intended use of the material and Ohno provides necessary details to practice the invention of Tilner.
7. Claims 1-25, and 50-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tillner (US 5,641,552) in view of Ohno et al (US 5,972,465). Tillner teaches a vehicle seat assembly having a trim cover, a foam pad and a fastening device fit in an insertion gap shown in figure 3. Applicants argue that there is no teaching in Tilner of the "insertion gap" having the variable width as recited in the claims. The arguments are not found persuasive because figure 2 of Tilner shows that the insertion gap has an upper part and a lower part wherein the upper part has a narrower width than the lower part. This reads on the channel having a first section and a second section wherein the first section has a narrower width than the second section. Tilner teaches that the fastening device includes a connector bar 5, a female attachment portion 6 and a clip portion 11. Tilner discloses the connector bar 5 being encompassed by the foam pad and the receiving element 6 spanning with the width of the gap insertion.

Tilner does not specifically disclose the width of the insertion gap. Therefore, it is necessary and thus obvious for the skilled artisan to look to the prior art for the suitable width of the insertion gap. Ohno teaches a production of a vehicle seat cushion comprising a trim cover, a foam pad and a fastener member fit in an insertion gap shown in figure 2. Ohno teaches the insertion gap having a width of about 10 to 15 mm (column 6, line 57, column 5, lines 61-63). In an absence of unexpected results, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the channel having a width within the range instantly claimed, motivated by Ohno and expectation of successfully practicing the invention of Tillner. Such a width is also taught by the prior art to effectively secure a trim cover to a foam cushion, which is important to the invention of Tilner, thus suggesting the modification.

With regard to claims 11 and 59, Tilner does not specifically disclose the receiving element having a substantially U-shaped cross-section. Ohno teaches the fastener device having the U-shaped cross-section (figures 1 and 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the receiving element having a U-shaped cross-section instead a C-shaped cross-section because such is a typical shape of the fastener member for use in attachment the foam cushion to the trim cover and Ohno provides necessary details to practice the invention of Tilner.

With regard to claims 12 -16, and 60-64, figure 3 of Tilner reads on the claim limitations.

With regard to claims 17, 18, 24, 65, 66, 69, 71, and 72, Tilner discloses the seat assembly comprising a plurality of female portions disposed in the channel and independent of one another. Tilner discloses the trim cover comprising the other of the male portion 17 (figure 1).

With regard to claims 19, 67, figure 2 shows the seat assembly comprising a plurality of female portions disposed in the channel and interconnected to one another at least one connecting portion (anchoring strip 2).

With regard to claims 20-22, Tillner teaches the anchoring strip and pull-in rod can be made of a flexible material such as polypropylene (column 2, lines 28-30, lines 60-62).

With regard to claim 23, Tillner does not specifically disclose the fastening device being made of polyurethane. Ohno teaches the fastener member made of polyurethane (column 6, line 60). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the polyethylene by polyurethane in the formation of the fastening device because such is intended use of the material and Ohno provides necessary details to practice the invention of Tilner.

Response to Arguments

8. The art rejections in the Office Action mailed on 02/05/2003 have been overcome by the present amendment and response.
9. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on M,T,Th, F, 8:30-6:00 and on alternating Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV



TERREL MORRIS
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